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Summary record (partial)* of the 220th meeting
Held at the Palais des Nations, Geneva, on Tuesday, 5 September 2017, at 10 a.m.

Chair: Mr. Huhle (Vice-Chair)

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* No summary record was prepared for the rest of the meeting.

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Pending the election of the new bureau, Mr. Huhle (Vice-Chair) took the Chair.

The meeting was called to order at 10 a.m.

Consideration of reports of States parties to the Convention (*continued*)

Initial report of Lithuania (*continued*) (CED/C/LTU/1; CED/C/LTU/Q/1 and Add.1)

1. *At the invitation of the Chair, the delegation of Lithuania took places at the Committee table.*

2. **The Chair**, in opening the meeting to continue the Committee's consideration of the initial report of Lithuania (CED/C/LTU/1), said that the focus would be on measures to prevent enforced disappearance and on victims' rights.

3. **Ms. Janina** (Country Rapporteur) said that she wished to know whether the State party's domestic law contained an explicit ban on the expulsion of persons who would be at risk of enforced disappearance if expelled, on what grounds the principle of non-refoulement was applied and whether those grounds included a belief on the part of the person concerned that he or she was in danger of being disappeared. Referring to paragraph 81 of the initial report, she asked what the difference was between the simplified and the regular extradition procedures, what happened when the person concerned withdrew his or her consent and whether decisions taken under the simplified procedure were appealable. It would be helpful to know what entity had the authority to receive and assess asylum requests, whether the State party subscribed to the concept of safe countries of origin and, if so, what entity was responsible for decisions in that domain, and whether the State party accepted diplomatic assurances in extradition cases. Noting that the matter of rendition had been raised on numerous occasions over the previous decade in other treaty bodies and international mechanisms, she would be interested to know whether investigations into the existence of a secret detention centre were ongoing, how transparent they had been, whether the public had been informed of the findings, whether those responsible had been brought to justice and whether victims had been provided with redress.

4. Regarding the fundamental rights of detained persons, she wished to know how quickly the relatives of a detained person were notified of the detention, at what stage a detainee was allowed to meet with the court-appointed lawyer, whether detainees could file complaints when their rights were infringed and, if so, what procedures were followed, and whether individuals who had infringed a detainee's rights were punished. It would be useful to know if and how the KADIS data storage and management system was connected to the Register of Detained, Arrested and Convicted Persons, who maintained that system, whether it was ever misused and whether there were penalties for its misuse.

5. Pointing out that article 24 of the Convention was very broad, she would be grateful to know whether the expanded definition of "victim" adopted by the State party in 2016 was fully in line with the Convention. She would also be grateful to know whether only persons who had been given the official status of victim by the courts could receive support from the compensation fund for victims of crime and whether there were plans to widen the scope of compensation to include other forms of reparation. The Committee was of the view that, even where there were no cases of enforced disappearance, States parties should have a system in place to provide social protection in the event of such a situation.

6. **Mr. Decaux** (Country Rapporteur), noting that it appeared from the replies to the list of issues (CED/C/LTU/Q/1/Add.1) that the Seimas Ombudsmen's Office tended to chiefly visit ordinary detention centres, asked whether the Office was allowed to conduct visits to all official and non-official establishments with a view to ensuring that no one was held incommunicado; he also wondered what the legal status of the Office's recommendations was. He wished to know whether the type of training provided at the conference mentioned in paragraph 66 of the replies would be repeated in future or if it was part of the basic or in-service training of police officers and all other professionals likely to be involved in investigating cases of enforced disappearance. He would appreciate the delegation's comments on the extent to which the right to truth, justice and reparation was respected in the State party, particularly in cases that had been closed owing to a lack of evidence, and

on the possibility of non-pecuniary damages being awarded. Lastly, could the status of "absentee" be applied to victims of enforced disappearance?

7. **Mr. Teraya**, drawing the delegation's attention to paragraph 15 of the list of issues (CED/C/LTU/Q/1), asked how much time was allocated to human rights education in the training of law enforcement personnel and other professionals, whether that training made specific reference to enforced disappearance and whether any mechanism was in place to ensure that those who received the training kept up their knowledge throughout their careers.

8. **Ms. Kolaković-Bojović** asked whether compensation could be awarded as part of the criminal proceedings or whether a victim had to initiate separate civil proceedings, what the minimum and maximum amounts of compensation were, how the amount was calculated and how long it took to receive compensation.

9. **Mr. Baati**, recalling that the right to justice was a comprehensive concept that went beyond material considerations, asked to what extent the State party took a holistic approach to compensation.

10. **Mr. Griciûnas** (Lithuania) said that there were no restrictions on inspections carried out by the Seimas Ombudsmen's Office; it had access to all institutions, including private premises if there were substantial grounds to believe that a person was being held there. Court authorization was not required for such inspections, although the involvement of law enforcement personnel might be necessary depending on the situation. In recent years, the Office had conducted inspections at a variety of establishments, such as police stations, detention centres, childcare facilities and mental health institutions. The Office's recommendations were not legally binding but they were regularly implemented in practice. They were transmitted not only to the establishment concerned but also to the entity responsible for its oversight. Some recent recommendations remained outstanding because they implied larger structural changes or an additional budgetary allocation, not because there was reluctance to implement them. In addition, the Office was involved in training and awareness-raising, having conducted three seminars for prison staff in 2016.

11. There were no barriers to an individual's access to a lawyer. There were two distinct compensation funds for victims of crime: one was for victims of offences committed by a private individual and the other was for victims of an offence committed by a State official. In the latter case, the amount of compensation was decided by the courts and varied according to the circumstances of the case. Decisions on compensation tended to be aligned with similar decisions of the European Court of Human Rights. The award was not limited to financial compensation and could include restitution.

12. Responding to the question about immigration matters, he said that those were the sole responsibility of the Migration Department of the Ministry of the Interior, whose decisions were implemented by Department staff in cooperation with law enforcement agencies. Situations were assessed on a case-by-case basis. The filing of an asylum request had a suspensive effect with regard to any extradition proceedings.

13. The position of Lithuania was that there had not been any cases of rendition. As he himself had testified during domestic proceedings, the questionable activities under investigation related to the exfiltration of operatives and had been conducted on premises whose location in central, densely populated areas would have made them an unreasonable choice for "special" detention facilities.

14. **Mr. Meška** (Lithuania) said that the main difference between the regular and fast-track extradition procedures was the time frame: under the fast-track procedure, the court was required to render a decision within three days, compared with seven under the regular procedure. Nevertheless, the court had a duty to verify that the person concerned fully understood the fast-track procedure and had given consent freely. Consent could be withdrawn at any time, thereby triggering application of the regular procedure.

15. Regarding the alleged cases of rendition, the investigation was ongoing because of the time required to liaise with other countries; information was pending from three foreign Governments. As to whether information had been provided to victims and their relatives, it should be noted that the investigation had been launched at the urging of non-governmental

organizations (NGOs) and that the lawyers for Redress Trust and Human Rights Watch had a right to access all the materials and to challenge decisions taken as part of the investigation. Therefore, they were well informed of progress in the case.

16. Prosecutors were required to notify a detainee's relatives of the detention immediately following the court hearing and to record that the notification had taken place. In addition, detainees had the right to telephone the person of their choice. If the detainee was a minor, notification of the parents was mandatory; if the parents were also involved in the offence, then the child protection services were notified. Prosecutors were required by law to inform victims when a suspect had been detained. Where victims wished to be informed of a suspect's release, notification was provided in writing.

17. The conference held in November 2016 had not been the only training provided. The issue of enforced disappearance was included in the curriculum for prosecutors, who were tested on their knowledge every five years. Under Lithuanian law, victims could seek redress as part of a criminal suit, except where the court deemed that the claim disrupted the proceedings; in such cases, a civil suit was initiated. There was no maximum amount and past awards had been generous; the awarding of non-pecuniary damages was also possible.

18. **Mr. Kiela** (Lithuania) said that the KADIS database was used more specifically for sentence enforcement, but that all the data it contained were nonetheless entered into the Register of Detained, Arrested and Convicted Persons. Persons who accessed the database were required to enter the reason for their query, and checks were carried out to prevent information from being abused; disciplinary and criminal penalties were provided for in the event of abuse. There were no obstacles to detainees contacting their relatives. Detainees had the right to file complaints either with the administration of the establishment where they were being held or, within 30 days, with another establishment.

19. **Mr. Stravinskas** (Lithuania) said that, when a person was arrested and held in detention, police officers were under an obligation to inform the prosecutor and a member of the person's family. They were also required to note the name of the relative concerned in the case record and the time he or she had been informed. If someone's whereabouts remained unknown for a period of one year, interested parties could apply to the courts to have that individual officially designated as missing. Inquiries into the fate of missing persons could be carried out in accordance with both the Code of Criminal Procedure and the Code of Civil Procedure. A programme to combat human trafficking had been in place since 2002 and, in 2016, the Ministry of the Interior had approved an anti-human trafficking plan that included a training module for police officers who dealt with such cases. A monitoring system was in place to ensure that officials who accessed prison databases used the information they obtained legally.

20. **Ms. Bernackienė** (Lithuania) said she was pleased to announce that the Seimas had recently approved legislative amendments that prohibited the use of corporal punishment against children. Under the new provisions, the State was obliged to take all the legal, administrative, social and educational measures necessary to protect children from violence. In order to reduce the incidence of violence against minors, an action plan on child welfare had been launched and, when episodes of violence or sexual abuse did occur, specialist assistance was available for victims and their families, including physical and mental health care, as well as legal and social support.

21. Local municipalities had begun setting up mobile groups to offer long-term support services to children who had been victims of sexual exploitation. At the same time, the State, local authorities and NGOs were cooperating in the implementation of a national programme for the prevention of domestic violence. Financial aid was available to help victims of human trafficking to reintegrate into society. All those social assistance services were also available to child victims of enforced disappearance and their families.

22. **Mr. Griciūnas** (Lithuania) said that he was unable to give precise information about the duration of compensation procedures, but his understanding was that they were relatively speedy, lasting perhaps just a matter of months. The form that reparation took depended on whether the applicant was seeking monetary compensation, restitution or restoration of reputation, all of which were contemplated in the Code of Civil Procedure.

The definition of "victim" in the Criminal Code was consistent with the European Union directive on victims of crime.

23. **Ms. Janina** said that she wished to know whether individuals who were not in possession of official documentation designating them as victims — such as persons who claimed to have been subjected to rendition — were able to access the compensation funds. She would be interested to learn how the courts and prosecutors acted if a person being forcibly removed from the country claimed that he or she risked becoming a victim of enforced disappearance in the State to which he or she was being extradited.

24. She would welcome more details about who was authorized to access information concerning investigations into alleged cases of rendition. Were some parties granted only limited access to documentation due to issues of State security? In the light of article 24 of the Convention, according to which a victim was a disappeared person or any individual who had suffered harm as the direct result of an enforced disappearance, she wished to know whether someone not related to a disappeared person could also claim victim status under domestic law.

25. **Mr. Decaux** said that the Convention was an innovative instrument that sought to provide victims — defined in article 24 (1) as all persons with a legitimate interest to intervene — not just with effective redress but also, more broadly, with truth and transparency. It was understandable that the delegation could not give an immediate response to all the Committee's questions, but it should recall that it could provide written responses to the Committee within 48 hours. It was important to establish a broad juridical framework on enforced disappearance, one that contemplated both prevention and reparation. In that context, he wished to know whether non-material forms of reparation were available, such as those envisaged in article 24 (5) of the Convention, notably guarantees of non-repetition.

26. **Mr. Ayat** said that he supported the comments made by Ms. Janina and Mr. Decaux. It was vitally important for domestic law to give clear and precise details about the safeguards in place to protect the rights of persons deprived of liberty, for example, with regard to access to a lawyer. Nonetheless, even when domestic law was fully compliant with international human rights treaties, the practical application of that law could be defective — not necessarily due to bad faith but as a consequence of a lack of resources or training. Article 18 of the Convention concerned the right of persons with a legitimate interest, such as the relatives or lawyer of the person deprived of liberty, to access relevant information, including information about that individual's state of health. In that light, he wished to know whether persons in detention in the State party were effectively able to exercise their right to be examined by a doctor, either at their own request or that of their relatives.

27. **The Chair** said that he would be interested to learn whether the national legal system had established a temporal relationship between the moment a victim suffered harm and the moment he or she could claim reparation. Specifically, was reparation available for persons who had suffered harm during the period before Lithuania had gained independence from the Union of Soviet Socialist Republics?

28. **Mr. Griciūnas** (Lithuania) said that basic health care was provided to persons deprived of liberty directly in their place of detention. More serious health issues were dealt with in a prison hospital, while complex medical conditions requiring sophisticated treatment were addressed in civilian hospitals, where detainees received the same level of care as that provided to the general public. In fact, persons in detention often received care faster than ordinary citizens, who sometimes had to wait for a number of months before receiving treatment.

29. Some difficulties with detainees accessing lawyers had arisen but they had been very minor incidents that had been resolved immediately, and there were no systemic problems in that regard. His understanding was that lawyers could have access to detainees for a maximum of eight hours a day. As far as he was aware, a person did need to be in possession of official victim status in order to access the compensation funds. In cases where a victim had died as a result of a crime, his or her relatives could have access to the funds. When the State was guilty of wrongdoing and the courts awarded compensation, the

State simply implemented the court ruling, whether it benefited the direct victim, a family member or a third party.

30. **Mr. Meška** (Lithuania) said that the authorities in Lithuania had encountered cases where requests for legal assistance from abroad had clearly been motivated by a desire on the part of certain States to neutralize political opponents. Lithuania therefore handled such requests very carefully, also seeking information from third States, in order to ensure that persons were not exposed to the risk of reprisals. Under national legislation, documents pertaining to pretrial investigations were not made public. Parties to a case could access the documentation but were under an obligation not to divulge its contents. If access to the documents raised issues of State security, lawyers accessing them needed to be in possession of a special authorization.

31. The Code of Criminal Procedure defined a victim as a natural person who had suffered harm as the result of a crime or a relative of a person who had died as the result of a crime. Individuals not related to the direct victim, but who lived with or cared for him or her and had suffered as the result of a crime, could also claim reparation. The status of victim could not be imposed; it had to be actively claimed by the person concerned. When determining compensation, the courts also sought to put a monetary value on non-material harm, such as stress. In the case of offences committed by public servants, the State could be required to pay compensation.

32. The right to see a lawyer was unrestricted and existed from the moment a person was detained. Even when detainees stated that they did not want legal representation, that statement had to be made officially in the presence of a lawyer in order to preclude any subsequent claim that they had been forced to waive their right to legal assistance. Non-material harm had been recognized in the new Criminal Code, introduced in 2003. Prior to that, only material harm had been recognized. Reparation for non-material harm resulting from crimes committed in the past could be claimed through civil proceedings.

33. **Ms. Janina** said that she wished to commend the State party for its constructive approach to the entire reporting process and its readiness to engage in dialogue with the Committee. She hoped that the State party would continue in that cooperative vein and duly implement the concluding observations, which were an expression of the views of the Committee as a whole, not just of the rapporteurs. In that way, Lithuania would continue to set a good example to other States as they moved towards ratification of the Convention.

34. In particular, she wished to compliment the national authorities for having criminalized enforced disappearance as a separate offence under domestic legislation. The Committee had also been pleased to note that there was no statute of limitations on cases of enforced disappearance, even though such a provision was not obligatory under the Convention. Nevertheless, she and other members had drawn attention to the importance of holding superiors criminally accountable for their actions and of ensuring that enforced disappearance attracted a punishment that reflected the very serious nature of the crime.

35. The Committee's concerns revolved not just around the letter of the law but also around its practical implementation. Victims needed to be able to exercise their rights freely and fully, particularly those stipulated under article 17 of the Convention, which prohibited secret detention and stated that persons deprived of liberty should be allowed to contact their relatives and lawyers. She looked forward to hearing how the new legal definition of "victim" would be implemented in practice and how it would benefit victims of enforced disappearance. As the Convention was a relatively recent instrument, it was also important for the authorities to focus efforts on the training of law enforcement officers and other public officials.

36. **Mr. Decaux** said that he agreed with Ms. Janina that the interaction with the Committee, up to and including the constructive dialogue, had been exemplary. In particular, the State party was to be commended for its transparency, its focus on training in related areas, such as human trafficking, and its presentation of the declarations under articles 31 and 32 of the Convention.

37. By transposing the definitions of the Convention into domestic law, the State party was seeking to underscore the principle of legality and to ensure the highest possible level

of legal safeguards. In that connection, it should consider transposing the provisions of article 6 in their entirety. Moreover, given the extreme seriousness of the crime of enforced disappearance, it should clarify its sentencing policies to ensure condign punishment for the offence in all cases, whether it was an isolated crime, an ancillary offence or a crime against humanity.

38. Prevention could be ensured by an adequate system of control and registration. The Seimas Ombudsmen also had an important role to play in that regard. The State party should consider how it could further improve its implementation of the Convention, particularly the more innovative aspects such as the provision for reparation for collective violations.

39. **Mr. Griciūnas** (Lithuania) said that his delegation had been very pleased to engage with the Committee in the interactive dialogue. He was grateful to members for the challenging questions they had raised, which had helped him to see the situation in Lithuania from a different perspective. He was sure that any improvements the State could make in its implementation of the Convention would have a positive effect on its implementation of other international human rights instruments.

40. **The Chair** said that he wished to echo the rapporteurs' words of praise for the State party. The delegation should recall that it could provide the Committee with further answers in written form within 48 hours.

The meeting rose at 12.05 p.m.